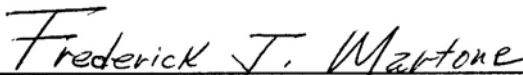




1 merits, if possible. The court has an interest in managing its docket. The defendants have  
2 been subjected to two years of litigation—they should not have to be subjected to that ordeal  
3 and cost again. There are no less drastic alternatives—a dismissal without prejudice fails to  
4 compensate the defendants for their ordeal and subjects them to the risk of double litigation.  
5 They have filed and served a motion for summary judgment. The plaintiff had an obligation  
6 to respond. See Rule 56(e), Fed. R. Civ. P. LRCiv 56.1(b). LRCiv 7.2(i). This case is too  
7 mature to dismiss without prejudice.

8 Accordingly, it is ORDERED that the reference to the magistrate judge is withdrawn,  
9 this action is DISMISSED WITH PREJUDICE under Rule 41(b) for lack of prosecution, and  
10 defendants' Motion for Summary Judgment is DENIED on grounds of mootness. (Doc. 35).

11 DATED this 22<sup>nd</sup> day of March, 2011.

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14 Frederick J. Martone  
15 United States District Judge  
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